

Today's press conference is focused on three issues involving the vote: (1) protecting the vote in the 2004 election; (2) the American people are grown and should elect their President and Vice President directly and eliminate the Electoral College; and (3) we need to add a voting rights amendment to the Constitution. I support all three, but my assignment today is mainly to discuss adding a voting rights amendment to the Constitution.

**PROTECTING THE VOTE IN 2004:** One only needs to read the recent document published by the NAACP and People for the American Way, "The Long Shadow Of Jim Crow" - or to have witnessed the 2000 election - to know that in both our history of voting and in the current administration of elections, the vote in America is neither safe nor sound.

As American University's Constitutional Law Professor Jamin B. Raskin points out in his book, *Overruling Democracy - The Supreme Court vs. The American People*, "Amazingly, the government of the United States conducts and provides no official count of the vote for president." Indeed, millions of votes were not counted in 2000. Can you imagine the United States recognizing a close and hotly contested third world "democratic" election where the citizens have no right to vote in their Constitution; as much as six percent of the total vote was not counted; where there was no official results provided by the government; and where that country's Supreme Court declared it's personal and ideological friend the winner, even though the declared winner did not get the most popular votes? Yet that's exactly what happened in the U.S. in 2000!

In 2004, in the age of Diebold, electronic voting, and a history of a modern day white Republican Party's dirty tricks - many of them borrowed from the historic white Democratic Party - when it comes to voting, all Americans must remain eternally vigilant.

**ELIMINATE THE ELECTIORAL COLLEGE:** The Electoral College is an antiquated system that was originally designed, mostly, to protect the institution of slavery. But as the nation saw the undemocratic nature of state legislatures electing U.S. Senators, it added a Seventeenth Amendment so that we could directly elect senators. It is time that we trust the American people to directly elect the President and Vice President as well. I am currently drafting legislation to be introduced in the 108th Congress - and every Congress thereafter - to eliminate the Electoral College and to replace it with a system that directly elects the President and Vice President.

**ADDING A VOTING RIGHTS AMENDMENT TO THE CONSTITUTION:** The United States sees itself as the center of world democracy. But do Americans have the right to vote? Most Americans will be shocked to discover the answer is "No." Unlike the First Amendment's guarantee of freedom of religion, press and assembly, the *individual right to vote* is not guaranteed in our Constitution!

Most Americans are also unaware that, according to a joint study by Cal-Tech and MIT, somewhere between four and six million votes nationally were not counted in 2000. Many states had similar problems to what occurred in Florida. My state of Illinois was the worst. Florida got the attention only because of the closeness of their vote.

Voting in America is overseen by 13,000 different election administrations, all separate and unequal, which is reminiscent of the legal theory that established Jim Crow legal segregation for

58 years as a result of the 1896 *Plessy v. Ferguson* decision.

The 15th, 19th and 26th Amendments prohibit *discrimination* in voting on the basis of race, sex and age respectively, but they do not affirmatively guarantee the right to vote. Voting in America is (like slavery was) essentially a 10th Amendment issue - "states' rights." Slavery is gone - overcome by adding the 13th Amendment to the Constitution - but the states' rights *system* of voting remains.

The U.S. Supreme Court ruled in *Bush v. Gore* (2000) that "the individual citizen has no federal constitutional right to vote for electors for the President of the United States." In other words, Florida's state right to oversee the election took precedent over counting every individual vote - or, legally, states' rights triumphed over individual rights. As a result, George Bush instead of Al Gore is President of the United States today.

In essence the Court said, since there is no affirmative right to vote in the Constitution, what does the Florida state statute say? It said Katherine Harris (the Secretary of State; and co-chair of the Bush Campaign) is in charge of the election and, according to *Florida law* all the votes must be counted by midnight, December 12. Since the Court decision came down at 10 pm on December 12, she said, in essence, if you can't count all the votes in the next two hours George Bush is the President.

But just in case the Court had ordered all of the votes counted and it turned out that Al Gore had won the most popular votes in Florida, the Republican-controlled Florida legislature had a back-up plan. Based on the fact that there is no right to vote in the Constitution - and that the Constitution says the right to elect electors resides in the state legislature - the Florida legislature was prepared to ignore the six million popular votes, elect their own Bush electors and send them to Congress for certification. That would have been both legally and constitutionally permissible.

During a Q & A session at the Rainbow/PUSH Coalition Convention in Chicago former President Bill Clinton, after careful questioning, acknowledged, constitutionally, we have a voting system largely based on "states' rights" and he supported adding an individual voting rights amendment to the Constitution.

At the recent UNITY: Journalists of Color Convention, Roland Martin asked President George W. Bush: "In your remarks you said that 8 million people in Afghanistan registered to vote, and as you said, exercised their God-given right to vote...That may be a right from God, but it's not guaranteed in the U.S. Constitution...And in this age of new constitutional amendments, will you endorse a constitutional amendment guaranteeing every American the right to vote in federal elections?" President Bush responded: "I'll consider it."

With the fall campaign likely to be another close race, it would be wise for Democrats and Kerry-Edwards - indeed, anyone who believes in democracy - to see the value of adding an individual voting rights amendment to the Constitution. It should be made an issue in the 2004 campaign and no longer allow "states' rights" almost absolute control over our election process.

I'm *convinced* that if Congress had the will, under our current Constitution, it could do much more to strengthen the administration of a unitary voting system, and protect and fully count all votes.

But I'm *unconvinced*, absent a voting rights amendment, that any solutions to these and other of our most pressing voting rights problems will be universal or sustainable. How do we change the current system and prevent another "Florida" from happening? How can we achieve equal protection under the law in 13,000 separate and unequally administered voting jurisdictions? It can't be done under our existing Constitution!

Therefore, my answer is, the only real way to establish a unitary and safe voting system, protect the right of every American to vote, and to have every vote count equally, is to add an affirmative right to vote amendment to the Constitution - and eliminating the Electoral College. Such an amendment would give Congress the power to establish a unitary voting system, insure that every vote is counted, and grant equal protection under the law for all voters. House Joint Resolution 28 is such an amendment.